IN THE HIGH COURT OF JUDICATURE,

ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE SIXTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT APPEAL NO : 297 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 08/12/2004 in WVMP 2173/2004 in WPMP 15000/2004 in WP NO:11790 OF 2004 on the file of the High Court.)

Between:

1. P.Krishna Murthy, s/o late P.Tirapaiah, Accounts Dept. Head Office, Nagarjuna Grameena Bank, Khammam.

2. S.P.Veera Chary, s/o Venkaiah, Accounts Dept., Head Office, Nagarjuna Grameena Bank, Khammam.

3. R.Rama Rao, s/o late Surya Prakash Rao, Accounts Dept.Head Office, Nagarjuna Grameena Bank, Khammam.

..... APPELLANTS

AND

1. P.S.M.Rao, s/o Rama Rao, Nagarjuna Grameena Bank, Bibinagar, Nalgonda District. (Ptr.1).

2. A. Satyapal Reddy, s/o A.Seshireddy, Nagarjuna Grameena Bank,

Choutuppal, Nalgonda District. Now under the orders of suspension) (Ptr.2).

3. B.Bikshamaiah, s/o Yadaiah, Nagarjuna Grameena Bank, Mall, Nalgonda District.

4. V.Eswaraiah, s/o Ramanaiah, Nagarjuna Grameena Bank, Bollapally, Nalgonda District.

5. V.Venkat Reddy, s/o Narayana Reddy, Nagarjuna Grameena Bank, Chityal, Nalgonda District.

6. T.Dayakara Rao, s/o Ranga Rao, Nagarjuna Grameena Bank, Choutuppal, Nalgonda District.

7. The Nagarjuna Grameena Bank, Khammam rep., by its Chairman.

8. Nagarjuna Grameena Bank, Khammam rep., by its Board of Directors.

.....RESPONDENTS

Counsel for the Appellants:DR.P.B.VIJAY KUMAR

Counsel for the Respondents 7 & 8: MR.K.SRINIVASAMURTHY

Mr.P.V.S.S.Rama Rao for RR 1 to 6

The Court at the stage of admission made the following :

THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI GHULAM MOHAMMED

W.A.No.297 of 2005

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ORAL JUDGMENT:

(Per the Hon'ble Sri Justice J.Chelameswar)

Aggrieved by the order dated 08-12-2004 in W.V.M.P.No.2173 of 2004 in W.P.M.P.No.15000 of 2004 in W.P.No.11790 of 2004, by which a learned single Judge of this Court declined to vacate the interim order dated 09-07-2004, the petitioners in the W.V.M.P.No.2173 of 2004, presented this appeal.

Appellants herein and Respondents No.1 to 6 herein, are the employees of the 7th respondent bank. The above-mentioned writ petition was filed challenging the circular issued by the 7th respondent bank by which the 7th respondent bank stipulated bench-mark of 50% marks for the interview that is to be held for the purpose of effecting promotions to the post of Officer Scale-II. All the appellants and the Respondents No.1 to 6 are aspirants for the said post by promotion.

It is brought to our notice that the system followed by the bank, as per the rules applicable to the employees for promotion to the above-mentioned post, for the purpose of the assessing the merit, is to conduct an examination in two parts, viz., written test and oral interview and the selection is based upon and the merit-cum-seniority. It appears that under the relevant rules, the bank is required to allot 60% of the marks to the written examination, 20% for performance of the aspirant in the feeder category and the remaining 20% of marks to the viva voce. It appears that admittedly under the rules, for an aspirant, to qualify in the viva voce he is required to secure 40% of the above mentioned 60% marks assigned for the written examination. For the first time, it appears, the bank, by a circular, sought to stipulate that even amongst those candidates who were found eligible and called for the viva voce examination, the candidates who secure less than 50% of the 20% marks assigned to the viva voce examination, would not be considered for promotion.

The challenge in the writ petition is to the legal validity and authority of the circular in making such a stipulation, and these are the matters to be decided in

the writ petition, which is admittedly listed before the learned single Judge for hearing.

However, it is brought to the notice of this Court by the learned counsel appearing for the appellants that there are approximately 72 posts required to be filled up by virtue of the proposed promotions and even if the objection of the writ petitioners-Respondents No.1 to 6 herein is sustained and the circular referred to above is declared illegal, only two of the respondents herein would be eligible to participate in the viva voce, as only those two have secured 40% of the marks required to be secured in the written examination.

On the other hand, the learned counsel for the Respondents No.1 to 6 submits that it is not two, but three of the respondents who would be eligible to participate in the viva voce.

In the circumstances, we do not see any valid reason to stall the promotions in question in their entirety. We deem it appropriate, in the above mentioned circumstances, to allow the present appeal and vacate the interim order dated 09-07-2004 made in W.P.M.P.No.15000 of 2004, subject to the condition that the 7th respondent bank will not fill up three posts of the above-mentioned 72 posts which are sought to be filed by promotion.

In the result, the appeal is allowed to the extent indicated above.

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J.Chelameswar, J

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Ghulam Mohammed, J

Note:

Issue wire at party's cost.

(bo)

mrk

16th March 2005.

To

1. The Chairman, Nagarjuna Grameena Bank, Khammam.
2. The Board of Directors, Nagarjuna Grameena Bank, Khammam.
3. Two CD copies.

THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI GHULAM MOHAMMED

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W.A.No.297 of 2005

ORAL JUDGMENT:

(Per the Hon'ble Sri Justice J.Chelameswar)

16th March 2005.